

REMARKS

This Amendment is submitted in reply to the final Office Action mailed on May 3, 2007. No fee is due in connection with this Amendment. The Director is authorized to charge any fees which may be required, or to credit any overpayment to Deposit Account No. 02-1818. If such a withdrawal is made, please indicate the Attorney Docket No. 117682-002 on the account statement.

Claims 1-2, 4-6, 11-12, 14-16 and 18-27 are pending in this application. Claims 3, 7-10, 13, 17 and 28-30 were previously canceled. In the Office Action, Claim 25 is rejected under 35 U.S.C. §112, first paragraph, Claims 4 and 6 are rejected under 35 U.S.C. §112, second paragraph, and Claims 1-2, 4-6, 11-12, 14-16 and 18-27 are rejected under 35 U.S.C. §103. In response Claims 1, 4, 6, 11, 21, 23 and 25-26 have been amended. These amendments do not add new matter. In view of the amendments and/or for the reasons set forth below, Applicants respectfully submit that the rejections should be withdrawn.

In the Office Action, the amendment dated January 24, 2007 is objected to and Claim 25 is rejected under 35 U.S.C. §112, first paragraph, as allegedly failing to comply with the written description requirement. In response, Applicants respectfully submit that contrary to the Patent Office's assertion the currently pending Claim 25 does not recite an organic peroxide up to and including 5% by weight. This element was deleted in the response dated July 18, 2007 via the request for continued examination filed by Applicants on August 23, 2007. Instead, presently pending Claim 25 recites, in part, an organic peroxide in an amount between 0.1 and 4.5% by weight. This element is explicitly taught in the originally filed specification, for example, at page 11, lines 1-2. Moreover, the skilled artisan would understand that this range of organic acid addition can be added to any of the claimed embodiments. Based on at least these noted reasons, Applicants believe that Claim 25 fully complies with 35 U.S.C. §112, first paragraph.

Accordingly, Applicants respectfully request that objection to the previous amendment and the rejection of Claim 25 under 35 U.S.C. §112, first paragraph, be withdrawn.

In the Office Action, Claims 4 and 6 are rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. In response, Applicants have amended Claims 4 and 6 to address the informalities cited by the Patent Office. Based on at least

these noted reasons, Applicants believe that Claims 4 and 6 fully comply with 35 U.S.C. §112, second paragraph.

Accordingly, Applicants respectfully request that the rejection of Claims 4 and 6 under 35 U.S.C. §112, second paragraph, be withdrawn.

In the Office Action, Claims 1-2, 4-6, 11-12, 14-16 and 18-27 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,756,651 to Chen et al. (“*Chen*”) in view of U.S. Patent No. 5,594,095 to Gruber et al. (“*Gruber*”) and in view of U.S. Patent No. 6,869,985 to Mohanty et al. (“*Mohanty*”). Claims 1-2, 4-6, 11-12, 14-16 and 18-27 are rejected under 35 U.S.C. §103(a) as being unpatentable over JP 2001-026658 (“*JP '658*”) in view of *Chen* and *Mohanty*. Applicants believe these rejections are improper and respectfully traverse them for at least the reasons set forth below.

Applicants have amended independent Claims 1, 11, 21, 23 and 25-26 to recite in part, a composition comprising between 0.1 and 4.5% by weight of co-polyester polymer with adipic acid. The amendment is supported in the specification, for example, at page 8, lines 19-23. In alternative embodiments, the claimed compositions and methods relate to a biodegradable plastic in which the degradation results from the action of naturally occurring microorganisms such as bacteria, fungi, and algae. For example, the claimed compositions can biodegrade in a short period of time and will pass the tests required by ASTM 6400 D99, which demands that compostable plastic should biodegrade within less than 180 days. In contrast, Applicants respectfully submit that the cited references are deficient with respect to the present claims.

For example, *Chen*, *Mohanty*, *Gruber* and *JP '658*, alone or in combination, fail to disclose or suggest a composition comprising between 0.1 and 4.5% by weight of co-polyester polymer with adipic acid as required, in part, by Claims 1, 11, 21, 23 and 25-26. *Chen* is entirely directed to a degradable film having excellent flexibility and impact strength for packaging applications, particularly lawn and trash bags. *Chen*’s film is a blend of polylactide as the major component along with a degradable impact modifier for increased impact strength and a degradable low molecular weight plasticizer for increased impact strength and flexibility. See, *Chen*, column 3, lines 43-65.

Gruber teaches improving certain characteristics of a polylactide polymer composition such as the viscosity, melt strength and rheology specifically for improved use as a coating film. *Gruber* teaches a polylactide polymer composition that is prepared by

using polylactide polymer molecules, which have been modified relative to linear non-substituted polylactide, to provide increased molecular interaction among polylactide backbone chains in the composition. See, *Gruber*, column 4, line 54 to column 5, line 23.

Mohanty is directed to polymeric materials for sheet flooring material. The polymeric material includes a conventional PLA based polymer in combination with a plasticizer and a compatibilizer. *JP '658* is directed a composition having an improved flexibility and melt tension. Nevertheless, the cited references fail to disclose or suggest every element of the present claims.

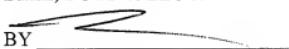
In sum, even if combinable, *Chen*, *Mohanty*, *Gruber* and *JP '658* fail to disclose or suggest a composition comprising between 0.1 and 4.5% by weight of co-polyester polymer with adipic acid as required, in part, by Claims 1, 11, 21, 23 and 25-26. Moreover, the cited references fail to even recognize the advantages, benefits and/or properties of compositions or methods having between 0.1 and 4.5% by weight of co-polyester polymer with adipic acid along with the additional recited elements in accordance with the present claims. For at least the reasons discussed above, the cited references fail to teach, suggest, or even disclose all of the elements of Claims 1, 11, 21, 23 and 25-26 and Claims 2, 4-6, 12, 14-16, 18-20, 22, 24 and 27 that depend from Claims 1, 11, 21, 23 and 25-26, and thus, fail to render the claimed subject matter obvious.

Accordingly, Applicants respectfully request that the obviousness rejections with respect to Claims 1-2, 4-6, 11-12, 14-16 and 18-27 be reconsidered and the rejections be withdrawn.

For the foregoing reasons, Applicants respectfully request reconsideration of the above-identified patent application and earnestly solicit an early allowance of same.

Respectfully submitted,

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